

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FCC 96-182

In the Matter of)

Implementation of the Local)
Competition Provisions in the)
Telecommunications Act of 1996)

CC Docket No. 96-98

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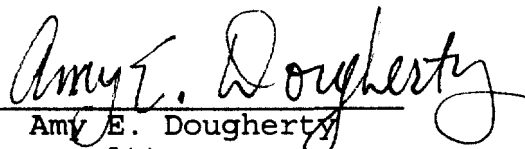
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COMMENTS OF KENTUCKY PUBLIC SERVICE COMMISSION
REGARDING NOTICE OF PROPOSED RULEMAKING

Submitted By:



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¹ Administrative Case No. 355, An Inquiry Into Local Competition, Universal Service, and the Non-Traffic Sensitive Access Rate.

carriers that serve Kentucky participated in the hearing. Testimony was presented by interexchange carriers, local exchange carriers, competitive access providers, cable television providers and, on behalf of consumer interests, the Kentucky Attorney General.

The Kentucky Commission anticipates entering an order during the summer of 1996 addressing issues relating to local competition. The Kentucky Commission will establish parameters for affordable rates, support of rural, insular and high cost areas, support of low income consumers, advanced services of schools, libraries and health care providers, reasonably comparable rates and other issues. When the order is concluded, the Kentucky Commission will forward a copy to the FCC.

Any rules or guidelines that the FCC adopts should be minimal, fair, and allow sufficient flexibility for states to accommodate specific situations in their respective jurisdictions. This same spirit should extend to all market participants. Market participants should have the flexibility to adhere to any regulatory guideline or rule in their respective least-cost fashion, but not hinder the continued formation of a competitive local market.

It is unclear how the broad pricing principles contemplated by the FCC will impact small Class B and non-Tier I companies. The rules as contemplated would only seem to be appropriate for Class A and Tier I companies. This Commission is concerned that the

contemplated rules will be overly burdensome in small, rural companies. The establishment and implementation of rules governing competition in rural, insular regions should be left entirely to the states.

Paragraph 27

The Kentucky Commission embraces the implementation of standardization in the national interconnection policy. The approach taken by the FCC should be one that provides competitors a general, minimum, ubiquitous framework for entry. However, each state needs to have the flexibility to handle unique policy concerns which may arise.

Paragraph 30

The Kentucky Commission concurs with the FCC's implied intentions to allow uniform national market entry for competitors. This uniform national market entry is necessary to ensure successful local competition. However, each state should have the authority to require registration of market participants within individual states.

Paragraph 33

The Kentucky Commission embraces the establishment by the FCC of minimum unbundled elements, if the FCC reserves to the states the right to examine individual, explicit unbundling requests.

Paragraphs 117-120

We generally agree that the FCC has the authority to establish nationwide pricing principles. This will aid states in establishing

rates during an arbitration process and in reviewing Bell Operating Company's statements of generally available terms and conditions. However, the pricing principles should be sufficiently broad to allow states to recognize unique situations which may not exist elsewhere. States are the most familiar with the specific circumstances surrounding their own jurisdictional companies and should have the authority to set rates.

Paragraphs 121-122

We do not agree that an enforcement mechanism should be adopted. States should have the authority to enforce compliance with their respective specific pricing rules, which will have been adopted within the parameters of national pricing principles. Any enforcement mechanism adopted by the FCC should only address compliance with the national pricing principles. However, a monitoring mechanism may be helpful in helping the FCC and states work together to insure compliance with national pricing principles. Further, we agree that there should be no distinction between the pricing principles applicable to interconnection and unbundled network elements.

Paragraphs 123-125

We agree that states are precluded from setting rates by use of traditional cost-of-service regulation, with its detailed examination of historical carrier costs and rate bases. Some other form of cost-based regulation or price setting on a forward-looking cost methodology is appropriate.

Paragraphs 126-133

We agree that an incremental cost methodology, such as LRIC or TSLRIC is appropriate for pricing interconnection and unbundled network elements. Further, some provision should be made for the recovery of a legitimate portion of joint and common costs and rates should yield reasonable levels of return on capital. These rates should be viewed as a price ceiling for the local exchange carrier.

Paragraphs 134-143

Generally, the establishment of pricing parameters is reasonable if there is enough leeway to accommodate state-specific situations. We agree with paragraph 135.

In our local competition docket, referenced above, the major LECs have been ordered to produce cost studies for local service. However, a final decision has not been rendered concerning the use of proxy methods for setting rates.

Paragraphs 149-156

We agree that costs should be recovered in a manner that reflects the way they were incurred. We are reviewing the "switched platform approach" in our local competition docket. Generally, term and volume discounts for unbundled network elements or services are acceptable, as long as they are offered to any customer willing and able to commit to the same (standard) terms and conditions of service.

Paragraph 159

We want the definition of "exchange carrier" to include wireless services. However, discounted rates and unbundled local network elements and their respective rates should not be available to carriers that are not intending to provide local service. Thus, unbundled rates should not be used to avoid charges otherwise applicable.

Paragraph 176

States should have the right to identify services which are currently subsidized and prohibit their resale. This prohibition should be especially true prior to the expected restructure of rates.

Paragraphs 180-181

The FCC should issue broad guidelines for determining avoided costs. However, states should be allowed to determine the avoided amount through specific company audits. This is especially true for Class B (USoA) companies which may deviate from the strict account classifications found in Part 32.

Paragraphs 226-244

Mutual and reciprocal compensation and "bill and keep" arrangements are pending issues in our local competition docket. We are aware of the costs and benefits associated with each arrangement. We are mindful of the balance required to maintain fairness and foster local competition without imposing undue administrative burdens.

Paragraphs 260-261

The establishment of guidelines by the FCC regarding the legitimacy of a "bona fide request" and any other guidance relative to rural exemptions may be helpful to the states.

Paragraph 264

The arbitration process will be helped by the establishment of minimum federal standards. However, states must retain wide latitude to arbitrate agreement by parties and to review negotiated agreements.

The Kentucky Commission looks forward to participating to the fullest extent possible in this Notice of Proposed Rulemaking.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Comments of Kentucky Public Service Commission Regarding Notice of Proposed Rulemaking has been served by first-class mail, postage prepaid, on the following this 15th day of May, 1996.

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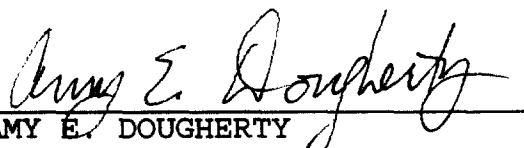
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